

**TOWN OF CHILMARK**

**BOARD OF HEALTH**  
**REGULATIONS**

**June 3, 1992**

*rev.*

***February 4, 2004***

**P.O. Box 119**  
**Chilmark MA 02535**

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Rev. Section 2. WELLS

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SECTION 1. PURPOSE AND AUTHORITY

1.01 Purpose. The purpose of these regulations is to protect the public health and general welfare, to maintain the quality of groundwater and surface waters, to prevent pollution of potable water supplies, and to maintain the viability of fishing and shellfishing areas.

1.02 Authority. Authority to adopt these public health regulations is granted under Chapter 111, Section 31 of the Massachusetts General Laws.

1.03 Severability. Each portion of this Regulation shall be construed as separate to the end that if any portion of sentence, clause, or phrases thereof shall be held invalid for any reason, the remainder of that regulation and all other regulations herein shall continue in full force.

## SECTION 2. WELLS

2.01 Fees. The fee for Well Installer Permit and the fee for Permit To Install Well are shown on the Fee Schedule which is posted in the Town Hall.

### 2.02 Permits.

(1) Permit To Install Well. No well drilling may begin without a Permit To Install Well. Permits To Install Well shall be valid for one year from the date of approval.

2.03 Location. Applications For Permit To Install Well must be accompanied by one copy of a scaled plot plan drawn by a registered professional engineer or surveyor. The plan must show the lot boundaries and the proposed well and, within a 150-foot radius, all existing and proposed subsurface disposal systems, all privies and all saltwater and freshwater bodies. All required setbacks and separations must be shown on the plan. Minimum separations are shown on TABLE 2.1 WELL AND SUCTION LINE SEPARATIONS. All proposed wells must be staked by a registered professional land surveyor or a professional engineer. If the well is a replacement well and is to be installed in close proximity to the existing well, the Board of Health may waive the requirement for a new plot plan.

(1) If there is a wetland in the locale of the proposed well or waterline trench, the applicant is advised to coordinate with the Chilmark Conservation Commission regarding additional requirements.

TABLE 2.1 WELL AND SUCTION LINE SEPARATIONS

	SEPTIC TANK (ft.)	LEACHING SYSTEM (ft.)	PROPERTY LINE (ft.)	LAND- FILL (ft.)	
WELL or SUCTION LINE	50	150	30	500	

2.04 Well Casing. If the casing of a new well is to be PVC, it must be no less than Schedule 40 PVC.

2.05 Wellhead Grouting and Sealing. All wells completed with the casing extending above grade shall have an impervious surface seal (Bentonite or equivalent) designed to eliminate the possibility of surface water flowing down the annular space between the well casing and the surrounding backfilled material. The surface seal shall extend to a depth of three feet. The ground immediately surrounding the well casing shall be sloped downward and away from the well in all directions to eliminate the possibility of surface water ponding.

2.06 Performance. A flow rate of at least 5 gallons per minute for a 4-hour period must be demonstrated for each well.

(1) Notice. The Board of Health reserves the right to witness the well performance test and must be given 24 hours notice prior to the start of the well performance test.

(2) Disinfection. The entire water supply system shall be disinfected upon completion of well construction. The entire water supply system shall also be disinfected upon completion of installation, maintenance or repair work performed on the well pump.

(3) Testing. A written water analysis by a water testing facility which has been approved by the Commonwealth of Massachusetts must be conducted on all new and replacement wells in order to confirm the potability of the water.

2.07 Reports. Before any well will be given final approval, a drinking water Laboratory Analysis Report and a Water Well Completion Report must be submitted to, and approved by, the Board of Health.

### SECTION 3. DISPOSAL WORKS

NOTE: This section of the Chilmark Board of Health Regulations is structured to match the structure of 310 CMR 15.00: MINIMUM REQUIREMENTS FOR THE SUBSURFACE DISPOSAL OF SANITARY SEWAGE STATE ENVIRONMENTAL CODE, TITLE 5. In many instances, Title 5 requirements are incorporated into this document by reference; there are, however, differences between the Chilmark Board of Health Regulations and Title 5; wherever these differences occur, the Chilmark Board of Health requirement is in addition to the Title 5 requirement.

#### 3.02 General Requirements.

(1) Disposal Works Construction Permit. No individual sewage disposal system or other means of sewage disposal shall be constructed, altered or repaired until a permit has been issued by the Board of Health.

(2) Disposal Works Installer's Permit. No person or firm shall engage in the construction, alteration or repair of any sewage disposal system without first obtaining a Disposal Works Installer's Permit from the Board of Health. Such permits shall expire at the end of the calendar year in which they are issued unless earlier revoked for cause by the Board of Health. The Board of Health reserves the right to require that an applicant for a Disposal Works Installer's Permit pass an installer's test.

(3) Septage Handler's Permit. See 310 CMR Title 5 Para. 15.02(3).

(4) Application for Disposal Works Construction Permit. An Application For Disposal Works Construction Permit shall be submitted to the Board of Health and must be accompanied by three copies of a plan of the proposed sewage disposal facilities. Such permit shall be invalidated if conditions different than those set forth in the application are found prior to or during construction of the sewage disposal system. Permits so granted shall expire one year from the date of issue unless construction of the system is complete and a Certificate of Compliance has been issued.

(4.1) No application For Disposal Works Construction Permit will be given final approval until a well has been installed, tested and approved. However, tentative approval may be granted to an Application For Disposal Works Construction Permit prior to well installation in those instance when the applicant wishes to have confirmation that the proposed sewage disposal system is acceptable prior to going to the expense of installing the well. Such sewage disposal system tentative approvals will become final only after well installation, test and approval.

(5) Plan of Sewage Disposal System. The sewage disposal system plan must be drawn to scale and must show as a minimum:

- Locus
- Location and dimensions of the sewage disposal system (including reserve area)
- Profile of the sewage disposal system
- Design calculations for the sewage disposal system
- Maximum groundwater elevation in the area of the leaching system
- Existing and proposed contours
- Location and floor plan of existing and proposed dwellings with room titles or uses labeled
- Location, log, date and witnesses for deep observations holes
- Location, results, date and witnesses for percolation tests
- Location of any existing or proposed well to serve the lot
- Location of existing and proposed water lines on the property, and an indication of whether such lines are suction or pressure lines
- Location of existing and proposed driveways
- Location of any streams, surface and subsurface drains and all wetlands (as defined by 310 CMR 10.00 and Chilmark Wetlands Bylaw) within 175 feet of the sewage disposal system
- All wetlands flags as required herein
- Location of Chilmark Coastal District Shore and Inland Zone, if proposed system is within 175 feet of Chilmark Coastal District
- Location of Squibnocket Pond District if proposed system is within 525 feet of the shore of the pond or if the project is within 225 feet of any stream or wetland (as defined by 310 CMR 10.00 and Chilmark Wetlands Bylaw) draining into the pond
- All water supplies and sewage facilities within 150 feet of the sewage disposal system
- All underground utilities and fuel storage tanks within the proposed construction area
- All variances required to Title 5 and to these Regulations

(5.1) Plan Preparation. The disposal system plan must be prepared by a professional engineer or other professional authorized by law to prepare such plan.

(5.2) Installer's Use of Plan. Before commencing any excavation, the installer shall obtain from the Board of Health a copy of the latest approved plan for the disposal system.

(6) Use. The use of a sewage disposal system shall be in compliance with the terms of the permit issued therefore and shall not exceed the design capacity of the system. Design capacity shall not be reduced for seasonal use.

(7) Building or Plumbing Permits. See 310 CMR Title 5 Para. 15.02(7).

(7.1) New Construction. No building permit or plumbing permit shall be issued until a Disposal Works Construction Permit has first been obtained.

(7.2) Alteration of an Existing Structure. In the case of an alteration to an existing structure, when the proposed volume of sewage is greater than the existing volume, the Board of Health reserves the right to determine whether the existing sewage disposal system is adequate for the proposed alteration before a building permit or plumbing permit is issued.

(8) Certificate of Compliance. A new sewage disposal system and alteration or repairs to an existing system shall not be placed in service, nor shall new dwellings or buildings or additions thereto which must rely on new sewage disposal systems for sewage disposal, be occupied until the Board of Health has issued a Certificate Of Compliance indicating that said disposal system has been located, constructed, altered, or repaired in compliance with the terms of the permit and the requirements of the Board of Health. The Board of Health shall require inspection of all construction by the designer or by an agent of the Board of Health and require him or her to certify in writing that all work has been completed in accordance with the terms of the permit and the approved plans. Such written certification by the designer is mandatory for all work requiring approval by the DEP with the additional provision that a copy of the written certification must be submitted to the DEP by the designer.

(9) Fees. Fees for application for permits are shown on the Fee Schedule which is posted in the Town Hall.

(10) Inspection. The Board of Health shall be notified 24 hours prior to the beginning of construction of any subsurface disposal system and prior to the covering of any subsurface disposal system. The Board of Health reserves the right to inspect the system at any stage of construction.

(10.1) Pump System Inspection. The engineer shall conduct a "wet" operational inspection on all new or repaired septic systems which employ a pump prior to issuance of the Certificate of Compliance.

(10.2) Installation Changes. Any change from the approved plan shall require written approval of a design engineer and the Board of Health prior to issuance of a Certificate of Compliance. Note that it is not an unusual occurrence for an owner to have a plan designed and approved, then sell the parcel (and plan), and then for the new owner to change the location and design of the house. If this situation occurs, and if these changes result in a change in location or capacity of any of the septic system components, the plan must be updated by the engineer and resubmitted to the Board of Health for approval prior to construction of the system.

(10.3) Final Inspection. Final Inspection shall be performed within a reasonable period of time by the Board of Health or its agent.

(11) Discharge To Watercourses. See CMR 310 Title 5 Para. 15.02(11).

(12) Connection to Common Sanitary Sewer. See CMR 310 Title 5 Para. 15.02(12)

(13) Volume of Sanitary Sewage. Each unit of the disposal system shall be designed to treat adequately the estimated volume of sanitary sewage to be discharged from the premises to be served. The volume of such flow should be based on the estimated maximum contributory population and the resultant maximum expected daily quantities of sewage as determined from the Table in 310 CMR 15.02 (13) SEWAGE FLOW ESTIMATES. No cooling water, ground water, discharge of roof drains, sump pumps or other uncontaminated water shall be discharged to the sanitary sewage disposal system.

(13.1) Bedrooms. A den, study, library, office, or any comparable use that, in the judgment of the Board of Health or its agent, is capable of being used as a bedroom, shall be considered as a bedroom in calculating sewage flows.

(13.2) Studios. A studio located in a building having plumbing, but not having a kitchen will be deemed to generate 5 gallons/day of sewage for each 100 square feet of studio area and 10 gallons/day per studio room(s) occupant. A studio located in a building having a kitchen will be deemed to generate 110 gallons/day per studio room.

(14) Type of System. See 310 Title 5 Para. 15.02(14).

(15) Drainage. See 310 CMR Title 5 Para. 15.02(15).

(16) Cover Material. See 310 CMR Title 5 Para. 15.02(16).

(17) Construction in Fill. See 310 CMR Title 5 Para. 15.02(17).

(18) Multiple Use. See 310 CMR Title 5 Para. 15.02(18).

(19) Maintenance. See 310 CMR Title 5 Para. 15.02(19).

(19.1) Chemical Treatment. No chemical treatment of subsurface disposal systems shall be permitted, including acid or hydrocarbon products.

(20) Discharge to Surface of Ground. See 310 CMR Title 5 Para. 15.02(20).

(21) Flow Measurement. See 310 CMR Title 5 Para 15.02(21).

(22) Reserve Area. See 310 CMR Title 5 Para. 15.02(22).

### 3.03 Location.

(1) General. The location and installation of each individual sewage disposal system, or other means of disposal, shall be such that with responsible maintenance it will function in a satisfactory manner and will not create a nuisance or discharge into any watercourse of the Commonwealth. In determining a suitable location for the system, consideration shall be given to the size and shape of the lot, slope, natural and adjusted drainage, existing and known future water supplies, depth to ground water, presence of impervious material, soil classifications, and reserve area. If there is a wetland in the locale of the proposed work area, the applicant is advised to coordinate with the Chilmark Conservation Commission.

(a) All wetlands (as defined by 310 CMR 10.00 and Chilmark Wetlands Bylaw) within 175 feet of leaching facility must be flagged.

(b) If within 25 feet of Squibnocket Pond Zone B1, then Zone B1 and Zone B2 shall be flagged.

(c) If within 175 feet of Squibnocket Pond Zone C, then Zone C shall be flagged.

(b) No sewage disposal system shall be located closer to an eroding coastal bank or cliff than either 100 feet or a distance equal to 20 times the average annual shoreline erosion, whichever is less.

(c) The leaching system must be installed in close proximity of the percolation test site. No Disposal Works Construction Permit shall be issued until a representative of the Board of Health has performed a site examination, witnessed deep observation holes and witnessed a percolation test.

(d) If, in the view of the Board of Health, the soils in the general area of the proposed leaching facility are irregular and largely unpredictable, the Board may specify that the engineer perform an on-site soil verification at the time of excavation and prior to installation of any septic system components (tank, pit liner, pipe, gravel, etc.). In these cases, the plan shall not be given final approval until it is revised and resubmitted incorporating a highlighted note stating the requirement for soil verification.

(e) The leaching facility shall be installed in close proximity to the location of the deep observation holes upon which system approval was based. If the soils found during excavation are different from those found at the test hole upon which the system approval was based, the Board of Health must be notified. In such instances the Board of Health reserves the right to require additional test holes and engineering redesign and re-approval before proceeding with installation.

(f) The Board of Health reserves the right to require that stakes be set marking the proposed location for the center of any proposed septic tank, leaching pit, distribution box and for the end points of any leaching trenches. If these stakes are required, they must also be dimensioned on the plan from two fixed landmarks, if such is possible.

(g) Installation of any septic tank, leaching pit, distribution box and leaching trench in a location different from that shown on the approved plan shall require submittal of an "as installed" plan which has been signed by the registered engineer prior to issuance of Certificate of Compliance by the Board of Health.

(2) Site Examination. See CMR Title 5 Para. 15.03(2).

(3) Deep Observation Hole. See CMR Title 5 Para. 15.03(3). The location of all deep observation holes called out on the plan must be staked and numbered on the site. They must also be dimensioned from two fixed landmarks, if possible.

(a) High seasonal groundwater may be determined only between December 1st and April 30th unless it can be demonstrated to the Board of Health's satisfaction that an out-of-season groundwater determination provides assurance that adequate separation exists between the bottom of the leaching system and the high seasonal groundwater level.

(4) Percolation Test. See CMR Title 5 Para. 15.03(4).

(5) Percolation Test Procedures. See CMR Title 5 Para. 15.03(5).

(6) Required Depth of Pervious Material. See CMR Title 5 Para. 15.03(6).

(7) Distances. See CMR Title 5 Para. 15.03(7).

(7.1) Separations. The disposal facilities shall meet the separation requirements shown on TABLE 3.1 DISPOSAL WORKS SEPARATIONS.

TABLE 3.1 DISPOSAL WORKS SEPARATIONS.

This table has been replaced				

3.04 Building Sewers in Unsewered Areas. See CMR Title 5 Para. 15.04.

3.05 Grease Traps. See CMR Title 5 Para. 15.05.

3.06 Septic Tanks. See CMR Title 5 Para. 15.06.

3.07 Dosing Tanks. See CMR Title 5 Para. 15.07.

3.08 Siphons. See CMR Title 5 Para. 15.08.

3.09 Pumps. See CMR Title 5 Para. 15.09.

3.10 Distribution Boxes. See CMR Title 5 Para. 15.10.

3.11 Leaching Pits. See CMR Title 5 Para. 15.11.

3.12 Leaching Galleries. See CMR Title 5 Para. 15.12.

3.13 Leaching Chambers. See CMR Title 5 Para. 15.13.

3.14 Leaching Trenches. See CMR Title 5 Para. 15.14.

3.15 Leaching Fields. See CMR Title 5 Para. 15.15.

3.16 Privies and Chemical Toilets. See CMR Title 5 Para. 15.16.

3.17 Humus Toilet. See CMR Title 5 Para. 15.17.

3.18 Miscellaneous Disposal. See CMR Title 5 Para. 15.18.

3.19 Transportation and Disposal of Privy, Cesspool and Septic Tank Contents. See CMR Title 5 Para. 15.19.

3.20 Variance. The Board of Health may vary any section of these regulations with respect to any particular case when in its opinion: (1) the enforcement thereof would do manifest injustice; and (2), the applicant has proved that the same degree of environmental protection required under these regulations can be achieved without strict application of a particular section.

(1) Mitigating Measures. In considering whether to vary any section of these regulations, the Board of Health may consider mitigating measures which lead to the same degree of environmental protection as is required under these regulations. Among those mitigating measures considered may be imposition of a requirement for having 15,000 square feet of non-wetland (as defined by 310 CMR 10.00 and the Chilmark Wetlands Bylaw) lot area for each bedroom.

(2) Title 5 Approvals. Variances from 310 CMR Title 5 require approval by the Massachusetts Department of Environmental Protection approval as well as approval from the Board of Health.

(3) Variance Requests. Every request for a variance shall be made in writing and shall state the specific regulation for which relief is sought and the reasons for the request.

(4) Notification. The applicant shall file a copy of the text of the variance request with the Board of Health. Once the notice is approved by the Board of Health, the applicant shall send it registered mail to all abutters within 300 feet of property lines of the subject lot. Included in the notice shall be a plot plan, locus, street names and abutters' parcels. Abutters must receive notice 10 days before the meeting at which the variance request is scheduled to be heard.

(5) Existing Disposal Systems. The Board of Health may issue a variance for repair of an existing sewage disposal system with no increase in flow without the requirement of notification of all abutters.

(6) Written Record. Any variance request granted by the Board of Health shall be in writing. Any variance request denied by the Board of Health shall also be in writing and

shall contain a clear statement of the reasons for denial. A copy of a variance or the denial of a variance shall be available at the Town Office during regular business hours.

(7) Material Changes. No request for a variance which has been denied by the Board of Health shall be acted upon favorably within two years after the date of the Board of Health's denial, unless the Board of Health finds by unanimous vote significant and material changes on the condition upon which their denial was based and describe such changes in the record of their proceedings.

## SECTION 4. SCALLOP SHANTIES

### 4.01 Construction.

(1) Floors. Floors shall be constructed in a manner which provides for adequate drainage and easy maintenance of cleanliness.

(2) Walls And Ceilings. Walls and ceilings shall be smooth, washable, light colored, free from cracks and uneven surfaces, and in good repair.

(3) Shucking Benches. The tops and backs of shucking benches shall be made from a smooth, impervious, nonabsorbent, nontoxic material which is free of cracks. They shall be constructed so that drainage is complete and directed away from all scallops. Corners shall be rounded. Material shall overlap the edges and seams shall be soldered or otherwise sealed and sanded smooth.

4.02 Waste Receptacles. A suitable number of waste containers shall be provided and no waste shall be allowed to accumulate except in these containers. Waste containers shall be thoroughly cleaned at the end of each day's use.

### 4.03 Cleaning Utensils and Equipment.

(1) Parts of utensils coming in contact with scallops shall be of corrosion-resistant, nonabsorbent, nontoxic, smooth material which will not readily crack or disintegrate. All seams and joints shall have a smooth surface for easy cleaning. Knives shall be so constructed so as to seal the joint between blade and handle. At the end of each day, all implements shall be scalded with at least 180° F water or disinfected with a chlorine solution or a sanitizer.

(2) After each day's operation all benches shall be either scalded with 180° F hot water or washed with a chlorine solution or a sanitizer.

4.04 Water. Water shall be from a source approved by the Board of Health.

4.05 Lavatory Facilities.

(1) Adequate and convenient lavatory facilities shall be provided. Persons shall wash their hands thoroughly prior to commencing work and before resuming work after each interruption. A sink or wash basin with hot and cold water, soap and paper towels shall be provided conveniently located. Signs directing employees to wash hands after each work interruption shall be conspicuously placed.

4.06 Refrigeration. Adequate refrigeration, either ice or mechanical refrigerators, shall be provided to maintain a temperature of 40° F, or less, as soon as possible after shellfish are open.

4.07 Packing Containers. All shucked meats shall be packed in new or previously unused containers of metal or such material as may be approved by the Board of Health. These containers shall be clean and adequately sealed at time of packing. Prior to use, containers shall be stored in a sanitary manner and protected from contamination. Metal containers shall be sealed by a friction-type cover. Sealing of other containers shall be adequate to protect scallops from contamination and shall be approved by the Board of Health. The metal containers shall have impressed, embossed or otherwise permanently recorded on the side, the permit number of the shipper, preceded by the state abbreviation and the words "Bay Scallops". Labelling of other approved types of containers shall be by a method approved by the Board of Health. Bay Scallop producers shall pack scallops in containers bearing their own permit numbers.

SECTION 5. PETROLEUM-BASED FUEL STORAGE TANKS

5.0 Underground Petroleum-Based Fuel Storage Tanks. Every owner of an underground petroleum-based fuel storage tank in Chilmark must file with the Board of Health the size, type, age, contents and location of their underground fuel storage tanks by July 1, 1990.

(1) No additional petroleum-based fuel storage tanks shall be buried underground. All additional petroleum-based fuel storage tank must be above ground, in a garage or in a cellar.

5.1 Above Ground, In-Cellar and In-Garage Petroleum-Based Fuel Storage Tanks.

(1) Base. All above-ground, in-cellar or in-garage petroleum-based fuel storage tanks shall be placed on a solid, sound, level, non-combustible material which will not settle or become unlevel.

(2) Wall Clearance. All above-ground, in-garage and in-cellar petroleum-based fuel storage tanks shall have at least a 3-inch clearance from the walls of any building.

## SECTION 6. CAMPING

6.1 Permits. Permits to camp must be obtained in writing from the Board of Health. Tent permits will be issued to property owners for the exclusive use of the property owners and their guests. A sketch of the parcel and surrounding area must accompany the application. The sketch must show lot lines, all existing structures, the camp site and toilet facility. The water supply must also be shown, if on-site. The tent must be a canvas, or equivalent, material. The camp site must have access to toilet facilities within 300 feet. Toilet facility may be a bathroom in an adjacent building, or a chemical toilet. The camp site must be at least 100 feet from any lot line. If the camp has electricity, the electrical source must be protected by ground fault interrupt. If the parcel has the maximum number of residential structures allowed by zoning, no platform, electrical service, or gas service is permitted. Camping season is May 1 through October 31.

The use of a porta pottie is required and a service agreement for maintenance must be submitted prior to issuing a tent permit. All refuse must be properly contained and must be disposed of weekly at an approved collection site. At the end of the camper's stay, the site is to be cleaned-up, the sanitary facility secured, or removed, and all refuse and equipment removed from the site.

Inspections of camp sites may be made at any time by a member of the Board of Health or its agent. A fine of \$25 per day may be imposed for violation of Board of Health Tent permit regulations.

6.2 Fees. The fee for a camping permit is shown on the Approved Board of Health Fee Schedule which is posted in the Town Hall.

## SECTION 7. RECYCLING

7.0 Recycling. Recycling in Chilmark is mandatory.

7.1 Separation. Recyclables shall not be placed in the same refuse container with other forms of solid waste, but separated according to category and brought to the Local Drop-Off facility where they will be placed in areas as directed by the attendant.

7.2 Styrofoam. No styrofoam plates or containers are to be used by Food Establishments.

SECTION 8. FOOD ESTABLISHMENTS

8.0 Classification and Inspection. Food Establishments are subdivided into five classes. At a minimum, each Food Establishment shall be available for inspection as shown in TABLE 8.1 FOOD ESTABLISHMENT CLASSIFICATIONS AND INSPECTIONS.

TABLE 8.1 FOOD ESTABLISHMENT CLASSIFICATIONS AND INSPECTIONS

CLASSIFICATION	CHARACTERISTIC S	INSPECTIONS
Small Residential Kitchen	Low Volume Small Variety	2 Annual Inspections
Large Residential Kitchen	High Volume Larger Variety	3 Annual Inspections
Restaurant Store Market		3 Annual Inspections
Bed & Breakfast		2 Annual Inspections
Shucking Shanty		1 Annual Inspection

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